

## **REMARKS**

### **Status of Claims**

Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The status of the claims is as follows:

- Claims 1-10, 12, 13, 15, 16, 18, 19, 24, 25, 27-29, 31-33, 35-38 and 40-44 are pending.
- No claims are added or canceled herein.
- Claims 1, 29, 31, 32 and 40 are amended herein.
- Claims 1, 18, 29, 33, 36, 38 and 40 are independent.

Claim 1 has been amended to add a comma. Support for the amendments to claims 29, 31 and 32 may be found, for example, at least at paragraphs 0031-0033, 0038-0039, 0044, 0045, 0061 and FIGS. 7-8 of Applicant's published application, US2005/0097606. No new matter has been added.

### **Claims 29, 31, and 32 Comply With § 112, 2nd Paragraph**

Claims 29, 31, and 32 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant respectfully traverses this rejection.

Nevertheless, for the sole purpose of expediting prosecution and without commenting on the propriety of the Office's rejections, Applicant herein amends claims 29, 31 and 32 as shown above. Applicant respectfully submits that these amendments render the § 112, second paragraph rejections moot.

## Cited Documents

The following documents have been applied to reject one or more claims of the Application:

- **Herrington:** Herrington et al., U.S. Patent Application Publication No. 2004/0221310
- **Ellis:** Ellis et al., U.S. Patent Application Publication No. 2010/0319041

## Claims 1-8, 10, 12, 13, 15, 16, 18, 19, 24, 25, 27-29, 31-33, 35-38, and 40-44 are Non-Obvious over Herrington and Ellis

Claims 1-8, 10, 12, 13, 15, 16, 18, 19, 24, 25, 27-29, 31-33, 35-38, and 40-44 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Herrington and Ellis. Applicant respectfully traverses the rejection and requests that the Office reconsider and withdraw the rejection.

### Independent Claim 1

Claim 1 recites, in part:

generating a sequence of television programs associated with the identifiers for navigation, wherein the sequence comprises a corresponding navigational axis, the sequence of television programs including the current television program and at least one other television program that shares one or more of the selected attributes with the currently displayed television program; and

navigating the sequence of television programs, wherein the navigating comprises using the next key or previous key to change from displaying the currently displayed television program in the sequence to displaying another television program in the sequence, wherein the next key or previous key is used to cycle through the sequence of television

programs without having to access a menu listing the television programs in the sequence for navigating to display of a next television program in the sequence.

In the rejection of claim 1, the Office asserts that Herrington teaches "generating a sequence of television programs associated with the identifiers for navigation wherein the sequence comprises a corresponding navigational axis, the sequence of television programs including the current television program and at least one other television program that shares one or more of the selected attributes with the currently displayed television program," citing FIG. 5 and par. 0051 of Herrington (Office Action, p. 7). For convenience of discussion, Applicant has reproduced FIG. 5 of Herrington below.

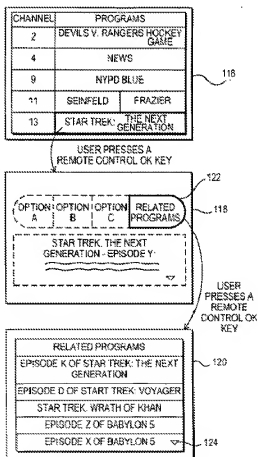


FIG. 5

FIG. 5 of Herrington shows an [i]llustrative program listings display screen 116, [an] illustrative information display screen 118, and [an] illustrative related-program find display screen 120 (Herrington, par. 0061). Herrington also describes that the “program guide may, at step 82, display a list of programs that are related to the particular program when the user requests that the system locate programs that are related to the particular program” (Herrington, par. 0051). Herrington further describes “provid[ing the] user with an opportunity to select **one** of the related programs (Herrington, FIG. 4, item 114; FIG. 6, item 134b -emphasis added). Consequently, there is no teaching or suggestion in Herrington of “generating a sequence of television programs...for navigation, wherein **the sequence comprises a corresponding navigational axis**,” or “navigating the sequence of television programs...” as recited in Applicant’s claim 1 (emphasis added). Instead, Herrington merely describes displaying a display screen having listings for programs which are related to a given program, and providing a user with an opportunity to select one of the related programs (Herrington, FIG. 4, item 112, item 114 and par. 0060). Applicant submits that displaying a list of related programs and providing the user with the opportunity to select one of the programs does not teach or suggest generating a sequence of television programs as a navigational axis or navigating the sequence of television programs. For example, the Office has failed to point to any portion of Herrington that teaches or suggests the ability to select more than one of the related programs in the display screen 120. Instead, Herrington clearly describes “provid[ing the] user with an opportunity to select **one** of the related programs” (Herrington, FIG. 4, item 114; FIG. 6, item 134b -emphasis added). Thus, Herrington does not teach or suggest generating a navigable sequence of television

programs. Consequently, Applicant submits that Herrington does not teach or suggest at least "generating a sequence of television programs associated with the identifiers for navigation wherein the sequence comprises a corresponding navigational axis," as recited in Applicant's claim 1.

Further, Herrington also fails to teach or suggest "the sequence of television programs ***including the current television program*** and at least one other television program that shares one or more of the selected attributes with the currently displayed television program," as recited in Applicant's claim 1. Instead, for example, the display screen 120 of FIG. 5 merely shows listings of related programs, and thus, does not include the current television program. On the other hand, Applicant's navigational axis, as recited in claim 1, includes the current television program as well as at least one other television program that may be navigated in sequence, such as by using a single key. Thus, Herrington fails to teach or suggest this feature as well. Ellis fails to compensate for the shortcomings in Herrington pointed out above. Accordingly, claim 1 is allowable over the cited documents at least for the elements of the first recitation discussed above.

In addition, in the rejection of claim 1, the Office concedes that Herrington does not explicitly disclose "navigating the sequence of television programs, wherein the navigating comprises using the next key or previous key to change from displaying the currently displayed television program in the sequence to displaying another television program in the sequence, wherein the next key or previous key is used to cycle through the sequence of television programs without having to access a menu listing the television programs in the sequence for navigating to display of a next television

program in the sequence.” Instead, the Office cites FIG. 9 and paragraphs 0105-0108 of the newly cited Ellis document as teaching this recitation of Applicant’s claim 1. For convenience of discussion, FIG. 9 of Ellis is reproduced below.

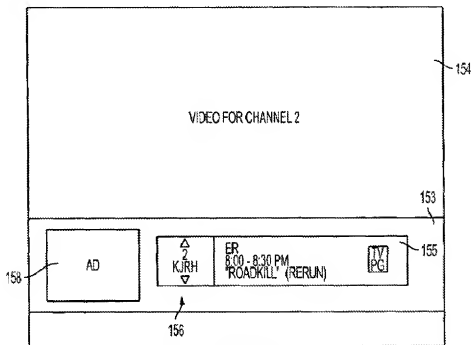


FIG. 9

In addition, with respect to FIG. 9, Ellis describes the following:

[0105] The interactive television application may provide a "flip" tuning feature. As shown in FIG. 9, when the user invokes the flip mode, flip display 153 may be provided over a portion of a channel (i.e., channel 2) that the user is currently tuned to and is watching on display screen 154. Flip display 153 contains information (in region 156) on the program 155 appearing on the current channel (channel 2) to which the set-top box 60 or other user equipment is tuned. The user may change the channel using channel up and down keys on the remote control or using user interface 118 to issue other suitable channel change commands. This simultaneously changes the channel to which the set-top box 60 or other

user equipment is tuned and the channel information displayed in region 156 (and the associated program information 155).

[0106] The flip display 153 may be removed manually or automatically (e.g., after a few seconds or other suitable time period of user inactivity). When the user starts changing channels again, the flip display 153 may be displayed again.

[0107] The flip feature of the interactive television application therefore allows the user to view program information for the channel that the user is currently viewing as the user changes channels. In the example of FIG. 9, the flip display 153 is displayed in the form of an overlay on top of the current channel. If desired, the video for the current channel may be reduced in size and the flip information (e.g., the program title and channel information for the current program) may be displayed at a location on the periphery of the reduced-size video (e.g., at the bottom, side, or top of the reduced-size video).

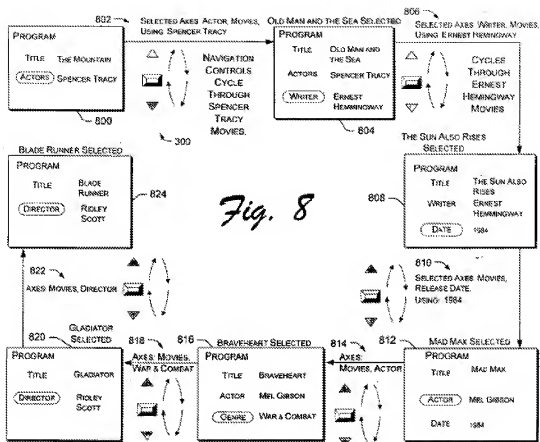
[0108] An advertisement 158 or other content may be provided in the flip display region if desired. Other optional information that may be displayed in flip display 153 includes information on the scheduled broadcast times for the program 155, ratings information, program descriptions, and other program-related information.

From a review of FIG. 9 of Ellis and the description of FIG. 9 in paragraphs 0105-0108 reproduced above, it is clear that FIG. 9 merely shows a "flip display 153 [that] may be provided over a portion of a channel (i.e., channel 2) that the user is currently tuned to and is watching on display screen 154" (Ellis, par. 0105). Ellis describes that the "user may change the channel using channel up and down keys on the remote

control or using user interface 118 to issue other suitable channel change commands" (*id.*). Ellis further describes that "[t]his simultaneously changes the channel to which the set-top box 60 or other user equipment is tuned and the channel information displayed in region 156 (and the associated program information 155)" (*id.*). Consequently, the cited portion of Ellis describes nothing more than changing channels in a conventional manner and displaying information regarding the currently displayed program. Applicant respectfully submits that the Office has failed to cite to any portion of Ellis that teaches or suggests that "the next key or previous key is used to ***cycle through the sequence of television programs*** without having to access a menu listing the television programs in the sequence for navigating to display of a next television program in the sequence," as recited in Applicant's claim 1 (emphasis added). For example, there is no teaching or suggestion in Ellis of cycling through a sequence of television programs that share one or more attributes with a currently displayed television program.

On the other hand, as illustrated at FIG. 8 of Applicant's application, reproduced below, a navigational axis may be generated based on selected attributes shared with a currently displayed television program. Thus, as shown at 800, if the user is currently viewing a program in which Spencer Tracy is an actor, the user may use "Spencer Tracy" and "Movies" as attributes to generate a navigational axis of a sequence of Spencer Tracy movies. As shown at 802 the user may use the navigation controls 300 to cycle through the sequence of Spencer Tracy movies without having to access a menu listing the movies. FIG. 8 shows that a variety of such navigational axes may be generated based on a variety of different attributes.





In contrast, Ellis merely describes changing channels in a conventional manner while displaying information about the program appearing in the current channel. Thus, Ellis does not teach or suggest "the next key or previous key is used to cycle through ***the sequence of television programs,***" as defined in Applicant's claim 1. For example, "the sequence of television programs" is clearly defined in claim 1 to include "the current television program and at least one other television program that shares one or more of the selected attributes with the currently displayed television program." There is no teaching or suggestion in Ellis of cycling through such a sequence of programs. Further, as discussed above, Herrington also does not teach or suggest the ability to cycle through the sequence of television programs. Instead, for example,

Herrington merely displays a listing of related programs and the user may be provided with opportunity to select **one** of the related programs. See, e.g., FIGS. 4 and 6 of Herrington and corresponding description. Thus, Herrington clearly requires accessing a menu (e.g., related-program find display screen 120) to go from the currently displayed program to a related program. Consequently, the combination of Herrington and Ellis does not teach or suggest the above recitations of Applicant's claim 1.

For at least the reasons presented herein, the combination of Herrington and Ellis does not teach or suggest all of the features of claim 1. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 1.

*Dependent Claims 2-5, 8-10, 12, 13, 15 and 16*

Claims 2-5, 8-10, 12, 13, 15 and 16 ultimately depend from independent claim 1. As discussed above, claim 1 is allowable over the cited documents. Therefore, claims 2-5, 8-10, 12, 13, 15 and 16 are also allowable over the cited documents of record for at least their dependency from an allowable base claim.

Some or all of these claims may also be allowable over the cited documents for the additional features that each recites. For example, dependent claim 16 recites that "the Boolean operators are applied automatically based on an association between a link for launching a predefined query corresponding to a navigation context and the television program content associated with the link." The Office asserts that Herrington teaches this recitation, citing paragraph 0059 of Herrington. However, Applicant respectfully notes that the cited portion of Herrington merely describes that the "program guide may locate program listings for programs that have an attribute that matches an attribute of the given program (e.g., a common actor, same content, same subject

matter, same series, common director, same category, same theme, common production year, etc.), program listings for programs that have a plurality of attributes matching attributes of the given program” (Herrington , par. 0059). However, the Office has failed to point to any portion of Herrington that teaches or suggests ***“a link for launching a predefined query corresponding to a navigational context,”*** as recited in Applicant’s claim 16. In particular, Herrington does not teach or suggest an association between a link for launching a predefined query corresponding to a navigation context and the television program content associated with the link. Ellis fails to make up for the shortcomings in Herrington pointed out above. Accordingly, claim 16 is allowable over the cited documents for these additional reasons.

In view of the foregoing, Applicant respectfully requests that the Office withdraw the §103 rejection of claims 2-5, 8-10, 12, 13, 15 and 16.

#### Independent Claim 18

Applicant respectfully submits that the cited combination of documents fails to teach or suggest at least the following features recited in this claim:

receiving input from the navigation control to sequentially display content of the plurality of television programs as a navigational axis corresponding to the one or more attribute values, the navigation control navigating the navigational axis by a single key used to cycle through displaying the content of the plurality of television programs identified without accessing a menu listing the plurality of television programs.

For at least the reasons discussed above with respect to claim 1, Applicant respectfully submits that independent claim 18 is also allowable over Herrington, Ellis and/or the other documents of record, whether taken alone or in combination with one

another. For example, the combination of Herrington and Ellis does not teach or suggest at least “receiving input from the navigation control to ***sequentially display content of the plurality of television programs as a navigational axis corresponding to the one or more attribute values,***” as recited in Applicant’s claim 18. Further, the combination of Herrington and Ellis does not teach or suggest “the navigation control navigating the navigational axis by a single key used to cycle through displaying the content of the plurality of television programs identified without accessing a menu listing the plurality of television programs,” as recited in Applicant’s claim 18. Instead, for example, Herrington merely describes provid[ing the] user with an opportunity to select ***one*** of the related programs (Herrington, FIG. 4, item 114; FIG. 6, item 134b - emphasis added), while Ellis merely describes changing channels in a conventional manner.

For at least the reasons presented herein, the combination of Herrington and Ellis does not teach or suggest all of the features of claim 18. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 18.

**Dependent Claims 19, 24, 25, 27 and 28**

Claims 19, 24, 25, 27 and 28 ultimately depend from independent claim 18. As discussed above, claim 18 is allowable over the cited documents. Therefore, claims 19, 24, 25, 27 and 28 are also allowable over the cited documents of record for at least their dependency from an allowable base claim.

Some or all of these claims may also be allowable over the cited documents for the additional features that each recites. For example, dependent claim 19 recites that “the navigation control comprises a next key, a previous key and a select key, ***wherein***

***the next key or previous key is used to cycle through the content of the plurality of television programs identified without accessing the menu listing the plurality of television programs for navigating to the content of a next television program of the plurality of television programs"*** (emphasis added). The Office asserts that the features of claim 19 were met in the discussion of claim 18. However, Applicant respectfully notes that the Office has failed to cite any document that teaches or suggests at least the above-emphasized feature of Applicant's claim 19. For example, Ellis merely describes changing channels in a conventional manner. Herrington fails to make up for the shortcomings in Ellis pointed out above. Accordingly, claim 19 is allowable over the cited documents for these additional reasons.

In view of the foregoing, Applicant respectfully requests that the Office withdraw the §103 rejection of claims 19, 24, 25, 27 and 28.

**Independent Claim 29**

Applicant respectfully submits that the cited combination of documents fails to teach or suggest at least the following features recited in this claim:

the navigation control provides for navigation from display of the currently displayed television program to display of a plurality of different television programs corresponding to the television program identifiers in the list in response to activation of a single key for cycling through the display of the plurality of different television programs along the particular navigational axis identified by the list.

For at least the reasons discussed above with respect to claim 1, Applicant respectfully submits that independent claim 29 is also allowable over Herrington, Ellis and/or the other documents of record, whether taken alone or in combination with one

another. For example, the combination of Herrington and Ellis does not teach or suggest at least “navigation from display of the currently displayed television program to display of a plurality of different television programs corresponding to the television program identifiers in the list,” as presently recited in Applicant’s claim 29. Further, the combination of Herrington and Ellis does not teach or suggest “activation of a single key for cycling through the display of the plurality of different television programs along the particular navigational axis identified by the list,” as Applicant’s claim 29 presently recites.

For at least the reasons presented herein, the combination of Herrington and Ellis does not teach or suggest all of the features of claim 29. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 29.

*Dependent Claims 31 and 32*

Claims 31 and 32 depend from independent claim 29. As discussed above, claim 29 is allowable over the cited documents. Therefore, claims 31 and 32 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, as well as for the additional features that each recites. Applicant respectfully requests that the Office withdraw the §103 rejection of claims 31 and 32.

*Independent Claim 33*

Applicant respectfully submits that the cited combination of documents fails to teach or suggest at least the following features recited in this claim:

a navigation controller associated with the user interface to select the attribute values from the displayed set of attribute values corresponding to the currently displayed television program for launching

the one or more predefined queries, to navigate the navigational axis that is the list of program identifiers of television programs determined to correspond to the one or more predefined queries, and to display television programs corresponding to the program identifiers on the list, wherein the navigation controller comprises a single key activated to display multiple programs successively with corresponding successive single activations of the single key without displaying the list of program identifiers.

For at least the reasons discussed above with respect to claim 1, Applicant respectfully submits that independent claim 33 is also allowable over Herrington, Ellis and/or the other documents of record, whether taken alone or in combination with one another. For example, the combination of Herrington and Ellis does not teach or suggest at least "wherein the navigation controller comprises a single key activated to display multiple programs successively with corresponding successive single activations of the single key without displaying the list of program identifiers," as Applicant's claim 33 presently recites.

For at least the reasons presented herein, the combination of Herrington and Ellis does not teach or suggest all of the features of claim 33. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 33.

#### Dependent Claim 35

Claim 35 depends from independent claim 33. As discussed above, claim 33 is allowable over the cited documents. Therefore, claim 35 is also allowable over the cited documents of record for at least the dependency of this claim from an allowable base

claim, as well as for the additional features that it recites. Applicant respectfully requests that the Office withdraw the §103 rejection of claim 35.

Independent Claim 36

Applicant respectfully submits that the cited combination of documents fails to teach or suggest at least the following features recited in this claim:

the next key or previous key is used to cycle through the television programs corresponding to the list without having to access a menu listing the television programs in the list for navigating to a next television program in the sequence.

For at least the reasons discussed above with respect to claim 1, Applicant respectfully submits that independent claim 36 is also allowable over Herrington, Ellis and/or the other documents of record, whether taken alone or in combination with one another. For example, the combination of Herrington and Ellis does not teach or suggest at least “the next key or previous key is used to cycle through the television programs corresponding to the list without having to access a menu listing the television programs in the list for navigating to a next television program in the sequence,” as Applicant’s claim 36 recites.

For at least the reasons presented herein, the combination of Herrington and Ellis does not teach or suggest all of the features of claim 36. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 36.

Dependent Claim 37

Claim 37 depends from independent claim 36. As discussed above, claim 36 is allowable over the cited documents. Therefore, claim 37 is also allowable over the cited



documents of record for at least the dependency of this claim from an allowable base claim, as well as for the additional features that it recites. Applicant respectfully requests that the Office withdraw the §103 rejection of claim 37.

*Independent Claim 38*

Applicant respectfully submits that the cited combination of documents fails to teach or suggest at least the following features recited in this claim:

displaying sequentially the television programs in the list when a user uses a navigation controller for changing television channels to navigate along the navigational axis without navigating a display of the list for navigating to a next television program in the list.

For at least the reasons discussed above with respect to claim 1, Applicant respectfully submits that independent claim 38 is also allowable over Herrington, Ellis and/or the other documents of record, whether taken alone or in combination with one another. For example, the combination of Herrington and Ellis does not teach or suggest at least “displaying sequentially the television programs in the list when a user uses a navigation controller for changing television channels to navigate along the navigational axis without navigating a display of the list for navigating to a next television program in the list,” as Applicant’s claim 38 presently recites.

For at least the reasons presented herein, the combination of Herrington and Ellis does not teach or suggest all of the features of claim 38. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 38.

Independent Claim 40

Applicant respectfully submits that the cited combination of documents fails to teach or suggest at least the following features recited in this claim:

responsive to receipt of the instruction, navigating the navigational axis from a first channel displaying the currently displayed television program to a second channel displaying a different television program located on the navigational axis, wherein a listing of programs in the navigational axis is not displayed to effect the navigating on the navigational axis.

For at least the reasons discussed above with respect to claim 1, Applicant respectfully submits that independent claim 40 is also allowable over Herrington, Ellis and/or the other documents of record, whether taken alone or in combination with one another. For example, the combination of Herrington and Ellis does not teach or suggest at least "responsive to receipt of the instruction, navigating the navigational axis from a first channel displaying the currently displayed television program to a second channel displaying a different television program located on the navigational axis, wherein a listing of programs in the navigational axis is not displayed to effect the navigating on the navigational axis," as Applicant's claim 40 presently recites.

For at least the reasons presented herein, the combination of Herrington and Ellis does not teach or suggest all of the features of claim 40. Accordingly, Applicant respectfully requests that the Office withdraw the §103 rejection of claim 40.

Dependent Claims 41-44

Claims 41-44 ultimately depend from independent claim 40. As discussed above, claim 40 is allowable over the cited documents. Therefore, claims 41-44 are

also allowable over the cited documents of record for at least their dependency from an allowable base claim, as well as for the additional features that each recites. Applicant respectfully requests that the Office withdraw the §103 rejection of claims 41-44.

**Expectation that Next Action will not be Final**

Applicant submits that all claims are in condition for allowance. If the next action is not a Notice of Allowance, then in accordance with 37 CFR § 1.113 and MPEP 706.07(a), Applicant respectfully submits that a final action would be premature for the next action at least because Applicant has not amended independent claims 18, 33, 36, and 38 and has not substantively amended independent claims 1 and 40. Applicant has explained above that the rejection of claims 1, 18, 33, 36, 38 and 40 under 35 USC § 103(a) in view of the cited documents is improper and should be withdrawn. Consequently, in accordance with 37 CFR § 1.113 and MPEP 706.07(a), if the next action is not a Notice of Allowance, and if a rejection of these claims is made in the next action on other grounds, the next action cannot be made final.

## Conclusion

For at least the foregoing reasons, all pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that would prevent allowance of this application, Applicant requests that the Examiner contact the undersigned representative before issuing a subsequent Action.

Respectfully Submitted,

Lee & Hayes, PLLC  
Representative for Applicant

/Colin D. Barnitz 35061/

Dated: July 18, 2011

Colin D. Barnitz  
(colin@leehayes.com; 512-505-8162 x5002)  
Registration No. 35061

Brett J. Schlameus  
(brett@leehayes.com; 206-876-6022)  
Registration No. 60827